

REMARKS

This Amendment accompanies a Request for Continued Examination (RCE), and a Request for a one-month time extension. The foregoing amendments cancel Claims 6-47, and add Claims 48-69. Claims 48-69 are thus presented for examination. Further and favorable consideration of this application, as amended, is respectfully requested.

Request for 3-Month Suspension of Action

The Examiner's attention is respectfully directed to the fact that the accompanying RCE request implements a 3-month suspension of action, during which Applicants may file a further amendment adding some additional claims.

Transfer of Responsibility

As a courtesy, Applicants wish to notify the Examiner that, since issuance of the last Office Action, responsibility for this application has been transferred from the law firm of Hitt Gaines, P.C. to the law firm of Haynes and Boone L.L.P. A revocation of the existing power of attorney and a new power of attorney will be submitted in due course. In the meantime, the undersigned is acting under the provisions of 37 C.F.R. §1.34(a).

Comment Regarding Claims 6-47

The foregoing amendments cancel Claims 6-47, but Applicants reserve the right to present the subject matter of some or all of Claims 6-47 for examination again at a future time, along with an argument that subject matter of these claims is distinct from the prior art.

Comment Regarding 35 U.S.C. §112

The most recent Office Action was mailed on January 15, 2004, and rejected some pending claims under the first paragraph of 35 U.S.C. §112, based on an assertion that they recited subject matter which was not disclosed in the present application as originally filed. Newly-added Claims 48-69 have

been prepared with due regard for the requirements of 35 U.S.C. §112, and it is respectfully submitted that they are in compliance with §112.

Comment Regarding Herz U.S. Patent No. 5,754,938

The Office Action of January 15, 2004 rejected some claims under 35 U.S.C. §102, based on an assertion that they recited subject matter which was anticipated by the Herz patent. Further, that Office Action rejected some claims under 35 U.S.C. §103, based on an assertion that they would be obvious in view of Herz, when considered in combination with Gabber U.S. Patent No. 5,961,593.

The Gabber patent was previously made of record in this application by the Examiner, but it does not appear that the Herz patent has ever been made of record in this application (unless the physical file recently transferred to the undersigned's law firm is incomplete in some respect). Accordingly, it appears that the §102 and §103 rejections in the Office Action of January 15, 2004 are technically invalid, because they are each based in whole or in part on art which is not of record. Consequently, it is not clear that Applicants are obligated to address the Herz patent in these remarks. Nevertheless, in an effort to expedite examination of this application, Applicants will present below some comments regarding why Claims 48-69 are distinct from Herz and Gabber.

Independent Claims 48 and 59

Independent Claim 48 is a newly-added method claim which recites:

...establishing at a financial institution a pseudo payment type for a user;
and

using the pseudo payment type to effect a monetary payment on behalf of the user to a party other than the financial institution, without revealing to that party an actual identity of the user.

Independent Claim 59 is a newly-added apparatus claim which recites:

... an electronic system that includes:
a first program portion which establishes at a financial institution a
pseudo payment type for a user; and
a second program portion which effects under the pseudo payment
type a monetary payment on behalf of the user to a party other than the
financial institution, without revealing to that party an actual identity of
the user.

Although Herz recognizes that a user may have a pseudo identity, Herz does not appear to teach a pseudo payment type such as that recited in each of Claims 48 and 59. Gabber was relied on for the disclosure of a password, whereas Claims 48 and 59 do not recite passwords.

Dependent Claims

Claims 49-58 and Claims 60-69 respectively depend from Claim 48 and Claim 59, and are also believed to be distinct from the art of record, for example for the same reasons as Claims 48 and 59.

Conclusion

Based on the foregoing, it is respectfully submitted that all of the pending claims are fully allowable, and favorable reconsideration of this application is therefore respectfully requested. If the Examiner believes that examination of the present application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at 972-739-8647. Although Applicants believe that an accompanying check covers all fees which are presently due, the

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Commissioner is hereby authorized to charge any additional fee required by this paper, or to credit any overpayment, to Deposit Account No. 08-1394 of Haynes and Boone LLP.

Respectfully submitted,

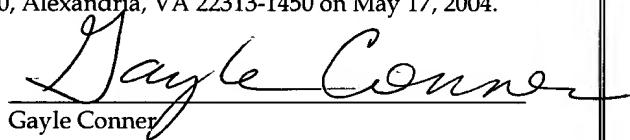


T. Murray Smith
Registration No. 30,222
(972) 739-8647

Dated: May 17, 2004
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: (972) 739-8647
Facsimile: (214) 200-0853
File: 35207.13

R-74742.1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 17, 2004.



Gayle Conner